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January 31, 2002

VIA HAND DELIVERY

RECEIVED

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

JAN 31 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notification of Ex Parte Communication in ET Docket 98-206/RM-9147; RM-9245; Applications of Broadwave USA et al., PDC Broadband Corporation, and Satellite Receivers, Ltd., to provide a fixed service in the 12.2-12.7 GHz Band; Requests of Broadwave USA et al. (DA 99-494), PDC Broadband Corporation (DA 00-1841), and Satellite Receivers, Ltd. (DA 00-2134) for Waiver of Part 101 Rules.

Dear Ms. Salas:

On January 30, 2002, Sophia Collier and Antoinette Cook Bush of Northpoint Technology, Ltd. ("Northpoint") met with Commissioner Monica Shah Desai of Commissioner Martin's staff to discuss the pending license applications of Northpoint's Broadwave USA affiliates to provide terrestrial service in the 12.2-12.7 GHz frequency band.

In particular, Northpoint discussed how the Commission's spectrum allocation and licensing policies and procedures are biased (arbitrarily and capriciously) in favor of satellite operators and against terrestrial users. In the current proceedings, for example, NGSO FSS operators are scheduled to receive some 3,250 MHz without an auction, while only 500 MHz has been allocated to terrestrial services – and the Commission is considering an auction of the terrestrial licenses. Northpoint identified ways in which FCC actions in the ongoing rulemaking and licensing proceedings foreclosed options that would have accommodated both satellite and terrestrial users in the relevant frequency

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bands. The attached four pages summarizing the points made were distributed at the meeting.

Eighteen copies of this letter are enclosed – two for inclusion in each of the above-referenced files. Please contact me if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read "J.C. Rozendaal". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

J.C. Rozendaal
Counsel for Northpoint Technology, Ltd.

cc: Monica Shah Desai, Office of Commissioner Martin

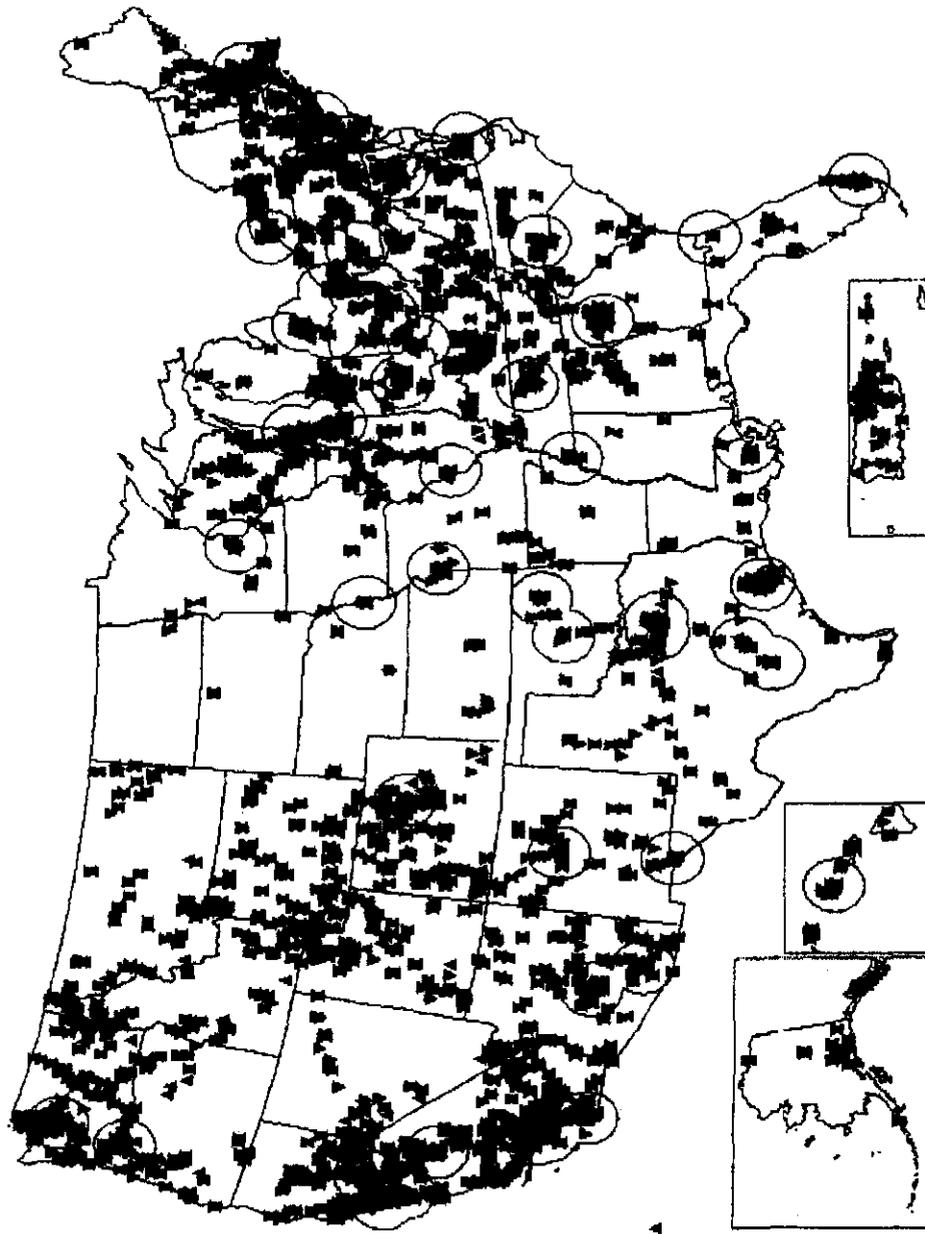
attachment

Disparate Processing Prejudiced Northpoint and All Future MVDDS Applicants

- Failure to call for terrestrial applicants at the same time as satellite applicants prevented the Commission from knowing the full universe of terrestrial applicants and affording them equal treatment with NGSO applicants.
- Prejudiced Northpoint and all future innovative terrestrial applicants
 - 3,250 MHz allocated for NGSO; 500 MHz for new terrestrial
 - “Sharing budget” disproportionately allocated to NGSO
 - Terrestrial operator’s technical options for terrestrial-terrestrial sharing have been foreclosed by Commission actions taken solely to accommodate all eight NGSO applicants.

Bands Considered in Rulemaking

Lower	Upper	Bandwidth
10.70	11.70	1.00
11.70	12.20	0.50
12.20	12.70	0.50
12.75	13.25	0.50
13.75	14.00	0.25
14.00	14.40	0.40
14.40	14.50	0.10
17.30	17.80	0.50
		3.75



10700 - 11700 MHz

CERTIFICATE OF SERVICE

I, Shonn Dyer, hereby certify that on this 31st day of January, 2002, copies of the foregoing were served by hand delivery* and/or first class United States mail, postage prepaid, on the following:

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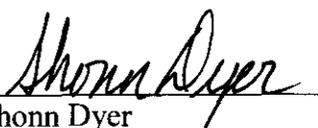
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